IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

CITY OF NORMANDY, et al.,	)	
	)	
Plaintiffs,	)	
v.	)	Case No. 15AC-CC00531-01
	)	
MICHAEL L. PARSON, in his official capacity as Governor of Missouri, et al.,	)	
	)	
Defendants.	)	

ORDER AND JUDGMENT

This matter comes before the Court on Defendants' Motion for Partial Relief from Judgment. For the reasons stated herein, the Defendants' Motion is GRANTED. Pursuant to Rule 74.06(b)(5) of the Missouri Supreme Court Rules, this Court modifies its previously entered permanent injunction and holds that Missouri is not enjoined from enforcing any provision of Sections 67.287 or 479.359, RSMo.

FACTUAL AND PROCEDURAL BACKGROUND

1. "St. Louis County, unlike other counties in the state, has a large population, lacks a central city, has 90 separate municipalities within its borders, and has a large, unincorporated area." *City of Chesterfield v. State*, 590 S.W.3d 840, 844 (Mo. 2019). These "distinctive features" of St. Louis County are "unique" in Missouri. *Id.* at 844, 845.

2. As a result of its fragmented governmental structure and its many municipalities, St. Louis County has many more police departments and more municipal courts than any other county in Missouri. In 2015, St. Louis County had 81 municipal court divisions, while the statewide average per judicial circuit was 8.6 municipal divisions. Def. Ex. D (Better Together Report), at 2. At the same time, St. Louis County had 63 separate police departments, of which at

least 45 were unaccredited. Pl. Ex. B (Feb. 5, 2016 Transcript), at 21. No other county in Missouri has anywhere near these numbers.

3. In August 2014, prolonged civil unrest and racial tension broke out in Ferguson, a municipality of St. Louis County, following the fatal shooting of Michael Brown by a police officer of the Ferguson Police Department. The civil unrest in Ferguson drew national attention.

4. Following the events in Ferguson, a series of public reports observed that Ferguson and other municipalities in St. Louis County were using fines and fees for minor traffic violations and other minor code infractions as a significant source of revenue. *See, e.g.*, Def. Ex. B (DOJ Report); Def Ex. C (Institute for Justice Report); Def. Ex. D (Better Together Report).

5. These reports observed that these municipalities were issuing traffic citations and other code violations, not for the purpose of promoting public safety and responsible driving, but as a method of raising municipal revenue. *See id.*

6. This practice of using municipal fines and fees to raise revenues came into national focus and was subject to widespread criticism in the aftermath of the events in Ferguson. Critics claimed that such revenue-driven municipal enforcement practices led to abusive police practices, including pretextual stops and over-charging citizens for municipal violations. *See id.*

7. Critics also claimed that revenue-focused municipal enforcement practices led to abusive practices in municipal courts, including the imposition of serially increasing fines on those who failed to appear or make payments for minor infractions, and the use of arrest warrants and detention to collect municipal fines and fees. Critics observed that such practices imposed disproportionate burdens on poor and minority communities in St. Louis County. *See id.*

8. The U.S. Department of Justice, under the leadership of Attorney General Eric Holder, issued a detailed report in 2015 criticizing the Ferguson city government for engaging in

revenue-driven enforcement practices. Def. Ex. B (DOJ Report). DOJ concluded that "Ferguson's law enforcement practices are shaped by the City's focus on revenue rather than by public safety needs." Def. Ex. B, at 2. According to DOJ, this "emphasis on revenue" from leaders in city government "compromised the institutional character of Ferguson's police department" and "shaped its municipal court, leading to procedures that raise due process concerns and inflict unnecessary harm on members of the Ferguson community." *Id.* at 2.

9. According to DOJ, these revenue-driven practices were "born disproportionately by African Americans" and poor and minority citizens. *Id.* at 4. Ferguson, with a population of 21,000, had issued "approximately 90,000 citations and summonses for municipal violations" in four years. *Id.* at 6-7.

10. The DOJ Report noted that "Ferguson police officers from all ranks told us that revenue generation is stressed heavily within the police department, and that the message comes from City leadership." *Id.* at 2. The DOJ Report concluded, "Ferguson's law enforcement practices are shaped by the City's focus on revenue rather than by public safety needs." *Id.*

11. DOJ concluded that revenue-driven enforcement had "sown deep mistrust between parts of the community and the police department, undermining law enforcement legitimacy among African Americans in particular." *Id.*

12. The DOJ Report also found that "the City's emphasis on revenue generation has a profound effect on FPD's approach to law enforcement," such that "[p]atrol assignments and schedules are geared toward aggressive enforcement of Ferguson's municipal code, with insufficient thought given to whether enforcement strategies promote public safety or unnecessarily undermine community trust and cooperation." *Id.*

13. The DOJ Report made extensive recommendations for reforms both of Ferguson's police department and its municipal court in light of its investigation. Def. Ex. B, at 90-102.

14. Other public reports concluded that the problems of revenue-driven municipal enforcement were not unique to Ferguson, but were widespread within St. Louis County.

15. One report concluded that, like Ferguson, "[m]any of the municipal courts in St. Louis County have lost the trust of their communities, particularly those in which residents are predominantly African-American and poor. In these municipalities, because of a lack of oversight and an overreliance on court fines and fees, the courts are viewed as punitive revenue centers rather than centers of justice." Def. Ex. D (Better Together Report), at 1.

16. The Better Together Report concluded that St. Louis County was unique among counties in Missouri in lacking sufficient oversight of its municipal courts. "For virtually every circuit in the state, [the circuit court] provides a sufficient method of oversight. However, the exception to this seemingly sufficient model lies in St. Louis County. … The problem in the oversight of the municipal courts in St. Louis County cannot be attributed to anything other than the fragmentation of the municipal court system." Def. Ex. D, at 6.

17. According to that report, this lack of oversight had led to a "culture" of municipal-court abuses in St. Louis County. Def. Ex. D, at 7. The report concluded that increasing oversight alone would be insufficient to "provide a remedy for the abuses that have steadily become part of the municipal court system and the culture that has been established over the decades such oversight was absent." Def. Ex. D, at 6-7.

18. As an area for additional reform, the Better Together Report highlighted the fact that many municipalities in St. Louis County received very large proportions of their general revenues from municipal fines and fees, and it recommended curbing this practice. The report

noted that 21 municipalities in St. Louis County earned over 20 percent of their revenue from fines and fees—including 14 municipalities for whom fines and fees were the principal source of revenue. Def. Ex. D, at 1-2.

19. The Better Together Report also noted that "while the combined populations of the 90 municipalities in St. Louis County accounts for only 11% of Missouri's population, those municipalities bring in **34%** of all municipal fines and fees statewide." Def. Ex. D, at 2 (bold in original). In other words, the average citizen of St. Louis County's municipalities paid over three times as much in municipal fines and fees than did the average Missouri citizen outside those municipalities.

20. Based on Table 5 of the Better Together report, which both parties cite (*see* Def. Ex. D, at 24-26 tbl. 5; Pl. Ex. C), in the year before SB 5 was enacted:

- five municipalities in St. Louis County received over 40 percent of general revenues from fines and fees for minor infractions;
- eight municipalities in St. Louis County received over 30 percent of general revenues from such fines and fees (and thus were operating illegally under then-existing state law, *see* § 479.359.1, RSMo);
- 21 municipalities in St. Louis County received over 20 percent;
- 29 municipalities in St. Louis County received over 12.5 percent, and
- 40 municipalities in St. Louis County received over 10 percent.

21. The Better Together Report noted that Ferguson—whose extensive police and municipal-court abuses were detailed in the DOJ report, and which had issued 90,000 citations in four years—ranked 28th in St. Louis County in its proportion of general revenues obtained from

fines and fees. Twenty-seven St. Louis County municipalities collected a greater proportion of revenues from fines and fees than Ferguson did. Def. Ex. D, at 24-26, tbl. 5; Pl. Ex. C.

22. Even municipalities with large alternative sources of revenue in St. Louis County were accumulating very large amounts of revenue from municipal fines and fees. For example, Creve Coeur obtained over $1.96 million in fines in fees in 2014—more than Ferguson—and Chesterfield obtained $1.34 million in fines and fees in 2014. Def. Ex. D, at 24 tbl. 5.

23. The Better Together Report noted that "[a] motorist driving to the airport from Clayton or from downtown St. Louis may encounter three or four patrol cars with radar from three or more separate municipalities," and that segments of I-70, I-170, and I-270 in St. Louis County were likely "the most over-policed roadways in the state." Def. Ex. D, at 9.

24. In addition, the Arch City Defenders—a St. Louis public interest group that promotes criminal defendants' rights—issued a widely publicized 2014 white paper on municipal court reform in St. Louis County, which the Better Together Report cited extensively. *See* Thomas Harvey et al., *Arch City Defenders: Municipal Courts White Paper* (2014), *available at* https://www.archcitydefenders.org/wp-content/uploads/2019/03/ArchCity-Defenders-Municipal-Courts-Whitepaper.pdf (cited in Def. Ex. D (Better Together Report), at 3, 11, 12, 13, 14, 15).

25. Arch City Defenders' white paper recounted the observations of court-watchers at 60 municipal courts in St. Louis County. *See id.* at 3. It concluded that "approximately ***thirty*** of those courts" engaged in "illegal and harmful practices" such as jailing defendants for failing to pay fines as a method of collection, and issuing arrest warrants and cumulative fines on those who failed to appear for court dates on minor infractions. *Id.* at 3 (emphasis added).

26. The Better Together Report cited this survey to conclude that the worst problems associated with Ferguson in the DOJ Report—such as municipal "judges ordering individuals to

be locked up until they gather the money from friends and family"—were not unique to Ferguson; this kind of practice was "far from an isolated incident" in St. Louis County. Def. Ex. D, at 14.

27. In 2015, the Missouri General Assembly passed Senate Bill 5 to address these problems and concerns. Pl. Ex. A (Senate Bill 5); *see also* https://legiscan.com/MO/bill/SB5/2015.

28. The Missouri Senate passed Senate Bill 5 by a vote of 31-3, and the Missouri House of Representatives passed Senate Bill 5 by a vote of 134-25. *See id.*

29. Every State Senator from St. Louis County and from the St. Louis metropolitan area voted in favor of Senate Bill 5. *See* Marshall Griffin, *Missouri Legislature Sends Municipal Court Changes to the Governor*, St. Louis Public Radio (May 7, 2015), *at* https://news.stlpublicradio.org/post/missouri-legislature-sends-municipal-court-changes-governor#stream/0 (noting that only three "rural" Senators voted against the bill).

30. Senate Bill 5 included several provisions designed to promote good municipal government, curb the abuses associated with revenue-driven municipal enforcement, and protect citizens from those abuses. These included preventing automatic suspensions of drivers' licenses for non-payment of fines from minor traffic violations, improving oversight and promoting conflict-of-interest rules for municipal court divisions, limiting the amount of fines and fees for minor traffic violations, restricting the use of detention for failure to pay fines and fees from minor traffic violations, and other reforms. *See* Senate Bill 5, Pl. Ex. A.

31. In addition, Senate Bill 5 included two provisions that applied exclusively to cities, towns, and villages in "any county with a charter form of government and with more than nine hundred fifty thousand inhabitants." Pl. Ex. A, at 1, 8. The parties agree that St. Louis County is currently the only county in Missouri that meets this description.

32. First, Senate Bill 5 enacted new Section 67.287, which imposed minimum standards on St. Louis County's municipalities. *See* Pl. Ex. A, at 1-4. These minimum standards include standards for responsibility, transparency, and accountability in finances and accounting, § 67.287.2(1)-(5), (11)-(12); and standards for accreditation and written policies for municipal police departments, § 67.287.2(6)-(10). *See id.* at 1-3.

33. Second, Senate Bill 5 imposed new restrictions on the use of fines and fees from minor traffic violations. Previously, Missouri law required that every municipality must annually calculate its percentage of general operating revenue obtained from "fines, bond forfeitures, and court costs for minor traffic violations," and remit any funds in excess of 30 percent to the Department of Revenue. Pl. Ex. A, at 8; § 479.359.1, RSMo. Senate Bill 5 reduced this revenue cap to 20 percent for most counties in Missouri, *id.*, "except that any county with a charter form of government and with more than nine hundred fifty thousand inhabitants and any city, town or village with boundaries found within such county shall be reduced from thirty percent to twelve and a half percent." *Id.*; § 479.359.2, RSMo. In other words, St. Louis County and its municipalities were subject to the 12.5 percent cap, while other municipalities and counties in Missouri subject to the 20 percent cap.

34. In its prior judgment in this case, this Court permanently enjoined the State from enforcing the two provisions of Senate Bill 5 that applied only to St. Louis County, holding that they were unconstitutional special laws under Article III, §§ 40-42 of the Constitution. *See City of Normandy v. Nixon*, No. 15AC-CC000531, Judgment and Permanent Injunction, at 3, ¶¶ 10-11 (March 28, 2016).

35. The Missouri Supreme Court affirmed this portion of the judgment. *City of Normandy v. Greitens*, 518 S.W.3d 183, 188 (Mo. banc. 2017). The Supreme Court held that,

under then-existing law, these two provisions relied on "closed-ended" classifications and thus presumptively unconstitutional. *Id.* This shifted the burden to Defendants to present evidence establishing a "substantial justification" to overcome this presumption, and the Court held that Defendants had not done so. *Id.*

36. On December 24, 2019, the Missouri Supreme Court overruled its prior opinion in this case. The Supreme Court repudiated both the "open-ended vs. closed-ended" test and the "substantial justification" test for special-laws challenges, and instead adopted rational-basis review for special-laws challenges. *City of Aurora v. Spectrum Communications Group, LLC,* No. 592 S.W.3d 764 (Mo. banc 2019); Def. Ex. A (*City of Aurora* Slip Op.) at 13-15, 19-21. The Supreme Court described its *City of Normandy* opinion as the "final misdirection" in its special-laws jurisprudence. Def. Ex. A, at 17.

37. On January 30, 2020, Defendants (collectively, "the State") filed their Motion for Partial Relief from Judgment pursuant to Rule 74.06(b)(5) of the Missouri Supreme Court Rules. Defendants ask this Court amend its prior judgment of March 28, 2016, to remove the permanent injunction against the enforcement of §§ 67.287 and 479.359.2, RSMo.

CONCLUSIONS OF LAW

38. Rule 74.06(b) of the Missouri Supreme Court Rules provides, in relevant part: "On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment or order for the following reasons: … (5) … it is no longer equitable that the judgment remain in force." Mo. Sup. Ct. R. 74.06(b)(5).

39. The parties agree that Rule 74.06(b)(5) provides the appropriate procedural vehicle for the State to request relief from the Court's permanent injunction, and that the State's motion was filed within a reasonable time of the Missouri Supreme Court's decision in *City of Aurora*.

40. The parties further agree that the two disputed questions before the Court are: (1) whether the St. Louis County-specific provisions of §§ 67.287 and 479.359.2, RSMo, as enacted in Senate Bill 5, satisfy rational-basis review under *City of Aurora*; and (2) if they do, whether it would be inequitable to permit the State to enforce those now-constitutional laws.

41. *City of Aurora* held that traditional rational-basis review applies to legislative classifications challenged under the special-laws provisions of Article III, §§ 40-42 of the Missouri Constitution. *See* Def. Ex. A, *City of Aurora* Slip Op., at 13-15, 19-21.

42. Rational-basis review is the most deferential form of judicial review. Under rational basis review, a statute must be upheld if there is any "reasonably conceivable state of facts that ... provide a rational basis for the classification[s]." *Kansas City Premier Apartments, Inc. v. Mo. Real Estate Comm'n*, 344 S.W.3d 160, 170 (Mo. banc 2011) (quoting *FCC v. Beach Commc'ns, Inc.*, 508 U.S. 307, 313 (1993)).

43. "Rational basis review is 'highly deferential,' and courts do not question 'the wisdom, social desirability or economic policy underlying a statute.'" *Estate of Overbey v. Chad Franklin Nat'l Auto Sales N., LLC*, 361 S.W.3d 364, 378 (Mo. 2012) (quoting *Comm. for Educ. Equal. v. State*, 294 S.W.3d 477, 491 (Mo. banc 2009)).

44. Under rational-basis review, courts do not question the "wisdom, fairness, or logic of legislative choices." *Kansas City Premier Apartments*, 344 S.W.3d at 170 (quoting *Beach*, 508 U.S. at 313). "Instead, all that is required is that this Court find a plausible reason for the classification in question." *Kansas City Premier Apartments*, 344 S.W.3d at 170.

45. Where rational basis-review applies, a statutory classification must be upheld "if there is any reasonably conceivable state of facts that could provide a rational basis for the classification." *Beach*, 508 U.S. at 313. Where there are "plausible reasons" for the legislative

policy, the Court's "inquiry is at an end." *Id.* at 313-14. "This standard of review is a paradigm of judicial restraint." *Id.* at 314.

46. Under rational-basis review, the State has no burden to justify the legislative classification. Instead, the statute has "a strong presumption of validity," and "those attacking the rationality of the legislative classification have the burden to negative every conceivable basis which might support it." *Id.* at 314-15 (citation omitted).

47. In addition, rational-basis review does not require the State to produce evidence to support its justification for the statutory classification. Under rational-basis review, "a legislative choice is not subject to courtroom fact-finding and may be based on rational speculation unsupported by evidence or empirical data." *Id.* at 315.

48. Further, the actual motivation of the legislature is irrelevant. Under rational-basis review, "it is entirely irrelevant for constitutional purposes whether the conceived reason for the challenged distinction actually motivated the legislature." *Id.* at 315.

49. Plaintiffs do not dispute that the policies adopted in Sections 67.287 and 479.359.2 are rationally related to legitimate State goals, such as promoting good municipal government, curbing the abuses associated with revenue-driven enforcement of minor traffic violations and municipal codes, and protecting citizens from those abuses. The minimum standards set forth in Section 67.287 rationally advance the State's goals by promoting transparency and accountability in municipal finances and accounting, and ensuring the municipal police forces meet minimum standards—both of which also promote the State's goal of curbing the abuses associated with revenue-driven municipal enforcement. The proportional limits on revenues derived from fines and fees set forth in Section 479.359 rationally advance the State's goals by greatly reducing a municipality's incentive to engage in revenue-driven traffic and code enforcement practices.

50. Instead, Plaintiffs contend only that there was no rational basis for the legislature to treat St. Louis County differently, and to impose stricter standards on St. Louis County and its municipalities than on the rest of the Missouri.

51. On the contrary, there are many "reasonably conceivable" and "plausible" reasons why the Missouri General Assembly in 2015 might have wished to impose stricter standards for police and municipal-court reform on St. Louis County and its municipalities than on the rest of the State. All of these "plausible" reasons would apply equally to justify both the minimum standards in § 67.287 and the stricter revenue cap in § 479.359.2.

52. *First*, as the Missouri Supreme Court has observed, St. Louis County is "unique" among Missouri counties in that it "has a large population, lacks a central city, has 90 separate municipalities within its borders, and has a large, unincorporated area." *City of Chesterfield v. State*, 590 S.W.3d 840, 844 (Mo. 2019). Among Missouri counties, only St. Louis County had 90 municipal governments, 81 municipal courts, 63 separate police departments, and at least 45 unaccredited police departments. No other Missouri county came anywhere close to these numbers. As a result, many smaller municipalities that lack strong commercial or property-based sources of revenue had strong incentives to obtain revenue from fines and fees. Many critics believe that curbing revenue-driven municipal enforcement is "a matter of systematic incentives." State Ex. C (IJ Report), at 5. The legislature could rationally have concluded that St. Louis County's fragmented governmental structure created unique structural incentives for revenue-driven municipal enforcement practices, and that it was appropriate to impose stricter standards on St. Louis County to provide more powerful counter-incentives to counteract St. Louis County's unique structural incentives to engage in those abusive practices.

53. *Second*, as noted above, those calling for police and municipal-court reform in St. Louis County concluded that St. Louis County's municipal courts had a deeply entrenched "culture" of revenue-driven enforcement that had developed over decades of minimal oversight, and that this culture was unique to St. Louis County The legislature could rationally have concluded that stricter standards were appropriate for St. Louis County because the revenue-driven culture that causes police and municipal-court abuses was more deeply entrenched in St. Louis County than anywhere else in the State.

54. *Third*, there was strong empirical evidence that revenue-driven enforcement was more widespread among St. Louis County municipalities than anywhere else in Missouri. Only St. Louis County had 21 municipalities obtaining over 20 percent of their revenues from fines and fees. Only St. Louis County had 14 municipalities for which fines and fees were the principal source of revenue. Only St. Louis County had 63 separate police departments, including at least 45 unaccredited police departments. Only St. Louis County had 27 municipalities that were obtaining proportionally more revenue from fines and fees than Ferguson. Only St. Louis County was the subject of a court-observer study indicating that 30 of 60 municipal courts were engaging in abusive practices such as using arrest and detention to compel payment of municipal fines and fees. The legislature could rationally have concluded that stricter standards were appropriate for St. Louis County because the problems Senate Bill 5 addressed were more prevalent in St. Louis County.

55. *Fourth*, the social ills associated with revenue-driven enforcement—especially its impact on poor and minority communities—were better documented and more prevalent in St. Louis County than in any other county in the State. The DOJ Report, the Better Together Report, and the Arch City Defenders white paper all emphasized the profoundly disruptive impact that

revenue-driven enforcement practices had on the lives of poor and minority individuals and communities in St. Louis County. There was no similar evidence of such profound and corrosive impact in other counties from the problems that Senate Bill 5 was designed to address. The legislature could rationally have concluded that stricter standards were appropriate in St. Louis County than in other counties in the State because there was much stronger evidence of the social ills inflicted in St. Louis County than anywhere else in the State.

56. *Fifth*, there were strong reasons to believe that the individual burdens of revenue-driven enforcement were much higher on the citizens of St. Louis County than on citizens elsewhere in Missouri. On average, citizens of St. Louis County's municipalities paid more than three times as much in municipal fines and fees than other Missouri citizens. Moreover, a St. Louis County citizen on an ordinary transit could be subjected to several different aggressive municipal enforcement regimes in the course of a few miles. As a result, an individual citizen might be ticketed by multiple municipalities without any individual municipality hitting the 20 percent revenue cap that applied elsewhere. The legislature could rationally have concluded that stricter standards were appropriate for St. Louis County because the individual regulatory burdens on St. Louis County citizens from revenue-driven enforcement were greater than anywhere else in the State.

57. *Sixth*, no other county in Missouri experienced civil unrest and racial strife like that experienced in St. Louis County in the aftermath of the shooting of Michael Brown. The DOJ Report identified the police abuses and municipal-court abuses of Ferguson's Police Department and municipal court as the root cause of much of the racial tension and distrust of police and government. And many other critics noted that these issues were not limited to Ferguson but were widespread in St. Louis County. No other county in Missouri had any similar experience. Given

the unprecedented civil unrest and racial tension in St. Louis County, the legislature could rationally have concluded that it was more urgent to eradicate revenue-driven enforcement practices, and the police and municipal-court abuses they generate, from St. Louis County than from other counties in Missouri.

58. *Seventh*, in *City of Aurora*, the Missouri Supreme Court recognized that "[p]rotecting previously established revenue sources for political subdivisions" to avoid "disrupting the … reliance of those who acted lawfully before the change in policy" is also a legitimate state interest. Def. Ex. A (*City of Aurora* Slip Opinion), at 22. Likewise, in *City of Chesterfield*, the Supreme Court recognized that "the need for predictable and sound revenue streams" for municipalities as a legitimate interest. *City of Chesterfield v. State*, 590 S.W.3d 840, 845 (Mo. 2019). Thus, by imposing a revenue cap on municipalities, the legislature necessarily had to balance between competing interests—the State's interests in promoting sound municipal government and curbing the abuses associated with revenue-driven enforcement practices, and the municipalities' interest maintaining "predictable and sound revenue streams." *Id.* The legislature could rationally have concluded (and evidently did conclude) that this balance should be struck differently in St. Louis County than in other counties in Missouri because of all the unique features of St. Louis County discussed above. Such line-drawing is an "unavoidable component[] of most economic or social legislation," and it "virtually unreviewable" under rational-basis scrutiny. *Beach*, 508 U.S. at 316.

59. *Eighth*, under rational-basis scrutiny, "the legislature must be allowed leeway to approach a perceived problem incrementally." *Id.* at 316. Because of St. Louis County's unique structural incentives and the evidence of widespread problems in St. Louis County, the legislature could rationally have decided to push for reforms more quickly in St. Louis County, while allowing

other areas of the state more time to adjust to the new standards. This "incremental" approach to police and municipal-court reform in Senate Bill 5 also reflects a rational approach to a legislative problem.

60. Under rational-basis review, any one of these reasons would sufficient to uphold the challenged provisions of Senate Bill 5. Given all these reasons, the St. Louis County-specific provisions of Senate Bill 5 satisfy *City of Aurora*'s rational-basis test.

61. Plaintiffs also contend that, even if the challenged provisions of Senate Bill 5 satisfy rational-basis review (and are thus constitutional), this Court should nevertheless continue to enjoin their enforcement because it supposedly would be "inequitable" to require the municipalities to comply with a valid state law. The Court rejects this argument for at least three reasons.

62. *First*, the U.S. Supreme Court has twice rejected this precise argument, including in a case cited by Plaintiffs.[1] Applying Federal Rule of Civil Procedure 60(b)(5), which is the federal equivalent of Missouri's Rule 74.05(b)(6), the U.S. Supreme Court held that, once the party seeking relief from an injunction demonstrates a "significant change in the law" on which the injunction was based, enforcing the injunction is no longer equitable. *Agostini v. Felton*, 521 U.S. 203, 215 (1997).

63. If a significant change in decisional law has occurred, "a court errs when it refuses to modify an injunction or consent decree in light of such changes." *Id.* Here, Plaintiffs do not dispute that *City of Aurora* constituted a significant change in the law. The decision to modify an

[1] Both parties follow the Missouri Court of Appeals in relying on federal case law interpreting Federal Rule of Civil Procedure 60(b)(6).

injunction involves discretion, but "the exercise of discretion cannot be permitted to stand if … it rests upon a legal principle that can no longer be sustained." *Id.* at 238.

64. The U.S. Supreme Court reaffirmed this principle in *Horne v. Flores*, 557 U.S. 443 (2009), which Plaintiffs cite. *Horne* held that, once a party carries the burden of showing that changed circumstances warrant relief, "a court abuses its discretion when it refuses to modify an injunction or consent decree in light of such changes." *Id.* at 447 (quoting *Agostini*, 521 U.S. at 215). Thus, once the State demonstrates that its statutory provisions are constitutional under the new rational-basis standard, the Court lacks discretion to continue to enjoin the State from enforcing them. *Id.* Plaintiffs cite no authority that would authorize this Court to permanently enjoin the State from enforcing a *constitutional* statute.

65. *Second*, Plaintiffs' argument contradicts the rational-basis standard announced in *City of Aurora*, which Plaintiffs concede applies here. Plaintiffs contend that, even if the provisions of Senate Bill 5 are valid, it would be inequitable to enforce them because Plaintiffs think that they reflect bad policy. But it is axiomatic that, under rational-basis review, courts do not question 'the wisdom, social desirability or economic policy underlying a statute.'" *Estate of Overbey*, 361 S.W.3d at 378. This Court cannot second-guess the "wisdom, fairness, or logic of legislative choices." *Kansas City Premier Apartments*, 344 S.W.3d at 170 (quoting *Beach*, 508 U.S. at 313). "Instead, all that is required is that this Court find a plausible reason for the classification in question." *Id.* It is not this Court's role to decide what standards for police and municipal-court reform should apply in St. Louis County and the rest of the Missouri. That is the role of the legislature. As a duly enacted state statute, Senate Bill 5 "is in itself a declaration of public interest and policy." *Virginian Ry. Co. v. Sys. Fed'n No. 40*, 300 U.S. 515, 552 (1937).

66. *Third*, even if this Court had authority to engage in an equitable judgment about whether the now-valid provisions of Senate Bill 5 should go into effect, the equities would strongly favor allowing the statute to be enforced. The hardships imposed by revenue-driven enforcement on poor and minority communities in St. Louis County are well documented in the DOJ Report, the Better Together Report, and the Arch City Defenders white paper. *See* Def. Ex. B, C, D. Moreover, the racial tension and social unrest created by the police and municipal-court abuses in St. Louis County were on vivid display in Ferguson in 2014. Equity strongly favors the legislature's decision to take urgent steps to eradicate these burdens and abuses affecting the poorest and most marginalized in St. Louis County, which have contributed to unprecedented racial tension and civil unrest in St. Louis County.

67. Furthermore, it is black-letter law that an ongoing injunction preventing the State from enforcing a valid statute imposes irreparable injury on the State. *Maryland v. King*, 567 U.S. 1301, 1303 (2012) (Roberts, C.J., in chambers) (citation omitted); *New Motor Vehicle Bd. of Cal. v. Orrin W. Fox Co*., 434 U.S. 1345, 1351 (1977) (Rehnquist, J., in chambers) (same).

68. On the other side of the scale, Plaintiffs contend that Senate Bill 5 will impose irreparable injury on them by forcing them to find other sources of revenue to finance their city governments. Given the well-documented problems and abuses associated with revenue-driven municipal enforcement, there is nothing inequitable about requiring municipalities to use other methods of raising revenue—including submitting tax proposals to their citizens. As one report noted, "cities should find *other ways of shoring up their finances* and use their code enforcement powers only to protect the public," not as a cash cow to raise revenues. Def. Ex. C (IJ Report) at 5 (emphasis added). Plaintiffs have offered no evidence or argument that they have pursued alternative sources of revenue, and this failure undercuts their claim of irreparable injury.

69. Plaintiffs also claim that Senate Bill 5 imposes irreparable injury by threatening them with disincorporation if they cannot meet the 12.5 percent revenue cap in Section 479.359.2. But Senate Bill 5 imposes disincorporation on a municipality that violates the 12.5 percent revenue cap only if a supermajority of its citizens—60 percent—votes to dissolve the municipality. Pl. Ex. A (Senate Bill 5), at 14-15; § 479.368.3, RSMo. There is nothing inequitable about permitting a municipality's citizens—those most directly affected by its revenue-driven enforcement practices—to decide who will govern them.

CONCLUSION

For the reasons stated, the State's Motion for Partial Relief from Judgment is GRANTED. The Court's previous permanent injunction is modified to the extent that the State is not enjoined from enforcing Sections 67.287 and 479.359.2, RSMo. Judgment is hereby entered in favor of Defendants.

SO ORDERED this 1st day of December, 2020.

Jon E. Beetem, Circuit Judge – Division I